Written Submissions
File 180372.1.1

Complainants:

Nicole Gros Ventre Boy
Jason Bird
Thomas Bad Man

Doctor:

Dr. Lloyd Clarke

Counsel for Complainants:

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Complaint:

It is assumed that the facts in question are not being contested as there has never been an assertion from Dr. Clarke that the events did not take place. The Complainants allege being approached and confronted by Dr. Clarke while they were peacefully sitting on the sidewalk outside of a convenience store on Main Street in Cardston, Alberta. Dr. Clarke verbally abused them, berating them about not having jobs, loitering, being losers. He also mocked them about wanting Tylenol 3's. After being asked to stop his abuse of these people by a third party, Dr. Clarke called the police on the intervenor.

It is also factually significant to these Complaints that the persons targeted by Dr. Clarke's abuse were all indigenous people (members of the Blood Tribe) and that most of them were also beset with various social challenges including poverty, homelessness, and addictions.

Decision:

The Complaints were originally rejected on the basis that College "cannot dictate the behaviour of what a physician does outside a clinical setting." That analysis resulted in a finding "that there was insufficient evidence of unprofessional conduct to move forward with further investigation into Dr. Lloyd's (*sic*) conduct."

Request for Review:

A Request for Review was submitted on behalf of the Complainants on August 9, 2018.

Submissions:

1. It is respectfully submitted on behalf of the Complainants that the decision to reject the Complaints was incorrect. The appropriate factors were not considered.

2. Dr. Lloyd Clarke displayed a negative and biased attitude towards a group of indigenous people and he did that in a very public setting without regard to the actual circumstances of or plight faced by those targeted by his vitriol.

3. Dr. Clarke's actions demonstrated an obvious animus toward people from a distinct ethnic group. Indigenous Canadians have suffered long-standing mistreatment and discrimination.

4. The mistreatment of indigenous Canadians has been widely studied and acknowledged. The effects of historically racist policies including the legacy of Residential Schools, has resulted in well-documented issues of social disadvantage among some indigenous Canadians.

5. The Complainants in this case are people with significant challenges relating to addictions, mental health, homelessness and poverty. Their issues are complex and their circumstances are dire; they were living in a tent encampment on the edge of the town during the time period in question.

6. Dr. Clarke practices medicine in the town of Cardston, where this incident took place. He practices at a clinic and at the local hospital. He is routinely asked to administer health care to people from the indigenous community because of the proximity of the Blood Reserve to the town of Cardston.

7. Given the history of his practice, the location of his practice and his education and training, one would expect him to have an understanding of the plight of people like the Complainants.

8. Dr. Clarke's conduct should raise a question as to whether his obvious disdain for the group he targeted (which must be deep-seated given his willingness to put those views on full public display on the main street of his town) will impact how he treats people from the indigenous community when he sees them in his practice or at the hospital when he is working in the Emergency Room (ER).

9. <u>The following questions must be asked and investigated</u>: do Dr. Clarke's obvious biases and beliefs about indigenous people, demonstrated by his overtly hateful actions toward the Complainants, impact how he administers medical services to people from that community? If he is willing to put on display in a public setting his negative views towards

this group, is it not incumbent on the College of Physicians and Surgeons to determine whether his medical treatment of indigenous people has been affected in any way by those deeply held beliefs? Would he assess and treat properly an indigenous person who presented to him at the ER? Would he make assumptions about such a person's condition based on his biased views? Is he even more likely to be biased if that person presents as intoxicated, drug-addicted, suffering from mental illness or homeless? What is the historical record relating to his treatment of indigenous patients? Does he treat indigenous patients differently?

10. The College should also be concerned about the manner in which he discussed the medication Tylenol 3 (T3's) with this group. This is not an innocuous comment in a public setting especially when directed to the Complainants by a medical practitioner who we should assume has full insight into the issues of addiction to prescription medications like T3's. This comment is suggestive of an inappropriate attitude for a medical practitioner to harbour toward indigenous people in relation to their use of such substances.

11. The College must be aware of the issues relating to the problem of racism in the medical profession. Various news articles were cited in my Request for Review that speak to the pervasiveness of the issue. This issue has received so much attention in the media and academia that it has led to meaningful responses from all institutions involved in the provision of medical services and the education of medical professionals. For example, Alberta Health Services (AHS) has a mandatory cultural competency course for its employess (interestingly Doctors are not required to take it; out of over 4000 Doctors practicing in Alberta, only 58 have actually voluntarily taken the cultural competency training).

12. The College must also be aware of the significant barriers indigenous patients face in accessing medical care. This is a serious problem and is not something that can be ignored. Learned writing on this subject is readily accessible and very topical. There are also notorious cases of indigenous patients not receiving appropriate care like Brian Sinclair who died in a waiting room in Manitoba because assumptions were made about his issues and his condition went untreated for 34 hours. See: https://www.cbc.ca/radio/thecurrent/facing-race-the-current-s-town-hall-event-in-vancouver-1.4558134/it-has-eaten-a-hole-in-my-heart-indigenous-nurses-call-out-systemic-racism-with-life-or-death-consequences-1.4558954.

13. The concerns raised by the Complainants are serious and deserve a proper response; this is not an issue that can be ignored or taken lightly. It can be safely assumed that indigenous patients attending for medical services at the ER in Cardston who are aware of Dr. Clarke's actions will legitimately question whether they will receive adequate care from Dr. Clarke. It is not right for the College to simply shrug off such significant concerns with the response that his conduct was "outside the clinical setting."

14. An agency like the College has a duty to determine whether a member who is willing to put on full public display his prejudice towards a vulnerable group of people is able to practice his profession fairly and appropriately. You are asked to undertake this review of his practice with a view to determining if he has been objective and impartial when caring for indigenous patients. If concerns are raised upon review of that issue then he should be required to undertake cultural sensitivity and/or cultural bias awareness training so as to insure that he has the right kind of skill and understanding to do his job properly so that vulnerable people are not ill-served by him.

15. The panel assessing this matter is also asked to consider the information contained in the Request for Review submitted on behalf of the Complainants.

All of which is respectfully submitted this 10th day of September, 2018.

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Ingrid Hess, Barrister & Solicitor